

**REMARKS**

Entry of the foregoing, reexamination and reconsideration of the subject application, as amended, pursuant to and consistent with 37 C.F.R. § 1.116, are respectfully requested in light of the remarks which follow.

**I. Amendments to the Claims**

By the foregoing amendments to the claims, claims 10-12 and 16-25 have been amended as discussed below.

Additional amendments to the claims have also been made to clarify the claim language, for consistency, and to bring the claims into better conformance with U.S. patent practice. These amendments are merely editorial in nature and are not intended to change the scope of the claims or any elements recited therein.

Furthermore, claims 1-7, 9, 13-15, and 26 have been canceled.

The amendments to the claims, including cancellation of claims, have been made without prejudice or disclaimer to any subject matter recited or canceled herein. Applicants reserve the right to file one or more continuation and/or divisional applications directed to any canceled subject matter. No new matter has been added, and entry of the foregoing amendments to the above-identified application are respectfully requested.

**II. Response to Claim Rejections Under 35 U.S.C. § 102**

**A.** At pages 2-3 of the Office Action, claims 1-3, 12, and 17-22 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Bolling et al. (U.S. Patent No. 5,322,769) as evidenced by Weiner et al. (U.S. Patent No. 6,881,558).

**B.** At page 4 of the Office Action, claims 1-3, 12, and 17-22 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Chan et al. (EP 0 212 532) as evidenced by Weiner et al.

To expedite prosecution in the present application, and not to acquiesce to the Examiner's rejection, the claims have been amended as set forth above. In particular, claims 1-3 have been canceled, rendering the claim rejections under 35 U.S.C. § 102 moot as to those claims.

In addition, claim 12 has been amended to depend from claims 10 or 11 rather than from claim 1; claims 17 and 18 depend ultimately from claim 12; claim 19 has been amended

to recite a method comprising transforming a host cell with the expression vector of claim 12 or 16 rather than the expression system of claim 1; and claims 20-22 depend ultimately from claim 19. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 102 rejections of claims 12 and 17-22.

### **III. Response to Claim Rejections Under 35 U.S.C. § 103**

**A.** At pages 4-5 of the Office Action, claims 4-7 have been rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over Bolling et al. and further in view of De Beeck et al. (Journal of Biological Chemistry, 2000) and Arechaga et al. (FEBS, 2000) as evidenced by Caccaglione et al. (Virus Genes, 2000).

**B.** At pages 5-6 of the Office Action, claims 9 and 15 have been rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over Bolling et al. in view of De Beeck et al. and Arechaga et al. as evidenced by Caccaglione et al. and further in view of Smith et al. (Gene, 1988) and Fiaschi et al. (FEBS, 1995).

To expedite prosecution in the present application, and not to acquiesce to the Examiner's rejection, the claims have been amended as described above. In particular, claims 4-7, 9, and 15 have been canceled, rendering the claim rejections under 35 U.S.C. § 103 moot.

### **IV. Response to Claim Objections**

At page 6 of the Office Action, claims 10, 11, 16, and 23-25 have been objected to for being ultimately dependent on rejected claim 1. However, the Examiner has stated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Furthermore, the Examiner has stated that as the elected and examined species (SEQ ID NOS: 47, 41, and 37) are free of the prior art, additional species will be examined once the generic claim is indicated allowable.

To expedite prosecution in the present application, and not to acquiesce to the Examiner's rejection, claims 10, 11, 16 and 23-25 have been amended to no longer depend from claim 1. Applicants respectfully request reconsideration and withdrawal of the claim objections, and consideration of the non-elected species encompassed in the claims as amended.

**CONCLUSION**

This response is made without prejudice or disclaimer to any non-elected subject matter, and Applicants reserve the right to file one or more continuation and/or divisional applications directed to any non-elected subject matter.

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.

In the event that there are any questions related to this response, or the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney at the below-listed telephone number concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,

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